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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,988

02/09/2004

J. Daniel Raulerson

2755-03

1295

33941

7590

03/04/2009

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EXAMINER

FLICK, JASON E

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,988	<b>Applicant(s)</b> RAULERSON ET AL.	
	<b>Examiner</b> JASON FLICK	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-34, 40-44 and 47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-34, 40-44, and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 and 01 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/20/06; 8/28/08</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Examiner acknowledges the reply filed on 02/16/2007 in which claims 25, 26, 28-31, and 40 were amended. New claim 47 has been added. Currently, claims 25-34, 40-44, and 47 are pending for examination in this application.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 25-33 and 40-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Boswell (5,226,892). Boswell discloses a body having a first portion having a first top face sized to retain at least one catheter thereon; a second portion having a second top face sized to retain at least one catheter thereon; a hinge connecting the first portion and the second portion, such that the first portion is disposable to face toward the second portion when the first portion is pivoted about the hinge toward the second portion and such that the at least one catheter is clampingly engaged by and retainable between the first and second top faces, and a locking member for releasably locking a free end portion of the first portion to the second portion upon the first and second portions being relatively pivoted together about the at least one catheter. Boswell discloses the device as stated above, wherein both the first and second top faces further comprises a recessed area disposed between the hinge

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and the locking member, wherein the recessed area is sized to accept the at least one catheter, and wherein the recessed area is sized to accept at least two catheters; further comprising at least one rib extending from each of the recessed areas toward the other of the first and second top faces; wherein the claim is constructed from polypropylene; wherein the clamp is of unitary construction; wherein the locking member for releaseably connecting the free end of the first portion to second portion comprises the first portion having a slot, and the locking member of the second portion is a vertically projecting tab, wherein the vertically projecting tab is positioned to be releasably inserted into the slot for locking thereto; wherein a surface of the vertically projecting tab faces away from the hinge and includes a ledge that latches to an edge of the slot; wherein a top portion of the surface of the tab facing away from the hinge is beveled above the locking latch; wherein a top of the vertically projecting tab is rounded; wherein the vertically projecting tab is adapted to be biased toward the hinge permitting manual deflection thereof for release (see fig 1-4 and abstract.)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boswell in view of Turturro (6,331,165). Boswell discloses all of applicant's basic inventive concept substantially as claimed with the exception of the second portion comprising a gripping ring disposed distal from the hinge. Turturro shows this feature, a gripping ring distal of the working end of a medical device, to be old in the medical devices art. At the time of applicant's invention it would have been obvious to one of ordinary skill in the art to add a gripping ring to catheter clamp distal from the hinge in order to easier grip the device when unlocking and operating the clamp.

### ***Response to Arguments***

7. Applicant's arguments filed 02/16/2007 have been fully considered but they are not persuasive. Applicant's representative asserts that the prior art of record does not disclose the invention as claimed.

8. Examiner has fully considered applicant's arguments but they are not persuasive. It is examiner's position that given a careful reading, the claims do not distinguish over the prior art of record.

9. With respect to the amended claim 25, the examiner asserts that the prior art of record discloses the elements as claimed by the applicant. Applicant's representative asserts the reference fails to disclose a clamping engagement. The examiner respectfully disagrees. Specifically, as seen in figure 1, the reference clearly illustrates "at least one catheter is clampingly engaged by and retainable between the first and

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second top faces,” as stated in claim 25. Furthermore, the reference clearly states a clamping engagement (column 2, lines 41-45) in support of this illustration.

10. With respect to the amended claims 26, 28, 29, 30, and 31, the examiner asserts that the prior art of record discloses the elements as claimed by the applicant.

Applicant's representative asserts the reference fails to disclose recessed areas and a rib extending from the recessed areas. The examiner respectfully disagrees.

Specifically, as seen in figure 1 of the reference, the examiner interprets the foam pads (36 and 38) as comprising both ribs and recessed areas, thus meeting the claimed limitations.

11. With respect to the claims 41-44 and newly added claim 47, the examiner asserts that the prior art of record discloses the elements as claimed by the applicant.

Applicant's representative asserts the reference fails to disclose “a single hinge,” as well as the locking section of the clamp as claimed. The examiner respectfully disagrees.

Specifically, the examiner asserts the claim language regarding “a single hinge” does not exclude additional hinges, as noted in the prior art reference. In addition, regarding claim 44, the vertically projecting tab is adapted to be biased toward the hinge permitting manual deflection thereof for release, as specifically seen in figure 3. In this light, the reference meets the claim limitation.

12. The prior art of record teaches all elements as claimed and these elements satisfy all structural, functional, operational, and spatial limitations currently in the claims. Therefore, the standing rejections are proper and maintained.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bourgerie (6,460,231) discloses a quick release clamp for elongated objects.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON FLICK whose telephone number is (571)270-7024. The examiner can normally be reached on Monday through Thursday, 7:00am to 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F./

Examiner, Art Unit 3763

02/25/2009

/Nicholas D Lucchesi/

Supervisory Patent Examiner, Art Unit 3763